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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,886	11/26/2003	Thomas M. Lancy	86688CPK	1675

7590 01/18/2007
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EXAMINER

SCHWARTZ, PAMELA R

ART UNIT	PAPER NUMBER
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1774

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/18/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary

Application No.

10/722,886

Applicant(s)

LANEY ET AL.

Examiner

Pamela R. Schwartz

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-40 is/are pending in the application.
- 4a) Of the above claim(s) 16-20 and 22-38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-15, 21, 39 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-15, 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Morita et al. (EP 510998). Morita et al. disclose a porous film that is oriented in at least one direction, is breathable, and is produced from a polylactic acid base resin (see the abstract). The lactic acid can be about 70% by mole or more of L-lactide [p.3, line 20-25]. The polylactic acid based composition can be blended with a plasticizer and a filler of particle size 0.3 to 4 microns [p. 4, lines 43-58]. Filler may be calcium carbonate, barium sulfate, zinc oxide, etc. [p.4, lines 51-56]. Filler comprises 40 to 250 parts by weight per 100 parts resin composition [p.5, lines 10-15]. The formation process includes stretching the film 1.1 to 10 times in at least one direction. The reference also states that stretching can be carried out biaxially [p. 5, lines 27-30]. Thicknesses of films formed by the material vary with application generally in the range of 10 to 300 microns [p. 5, lines 34-35]. Because there is significant overlap in the particles size range, weight percentages of filler (which serve as void initiators), filler materials and polymer composition, and because the stretching ratios of the reference encompass those instantly claimed, many of the instantly claimed properties inherently result from practice of the prior art within its disclosed ranges. These properties include, the ink adsorption rate, the microvoid volume, the absorption capacity, volume of void initiator, and area ratio between the stretched and unstretched film. The film is highly

Art Unit: 1774

permeable to moisture and may be used in packaging materials [p. 2, lines 4-8]. The film may be an uppermost ink-receiving layer because only one layer is positively recited and no other layer is required to be present by the instant claims. The film will inherently be ink-receiving based upon its composition and structure.

2. Claims 1, 3-15, 21, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morita et al. (EP 510,988) for reasons of record and for reasons given below. The reference is primarily relied upon as set forth above. Since the reference discloses ranges and materials, it would have been obvious to one of ordinary skill in the art to form a film within these ranges with desired size and quantity of microvoids. That the properties will vary within the disclosed ranges would have been expected by one of ordinary skill in the art. The reference does not specifically recite inclusion of other polymeric materials, but it does disclose inclusion of colorants, reinforcements and other types of fillers that do not impair the object of the invention [p. 5, lines 34-35]. Such materials would include polymers that would result in a stronger film or one that was less expensive to produce. These modifications would have been obvious to one of ordinary skill in the art to achieve either of the results set forth above.

3. Applicant's arguments filed September 29, 2006 have been fully considered but they are not persuasive. While some of applicants' recited properties would not have been achieved at every point within the ranges set forth by the references, they all would be achieved within these ranges. The ranges of properties would have been expected by one of ordinary skill in the art who would select size and amount of void initiating materials and stretching ratios to achieve desired voiding of the polymer.

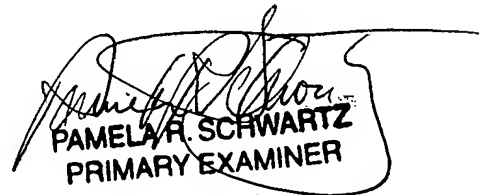
The disclosure of the reference is not limited to its examples. Applicants' arguments are primarily directed to the lack of a specific example that overlaps with the instantly claimed ranges. However, the teachings of the entire reference must be considered. These include draw ratios and loadings as high as those instantly claimed.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pamela Schwartz whose telephone number is (571) 272-1528.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye, can be reached on (571) 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PRSchwartz
January 12, 2007


PAMELA R. SCHWARTZ
PRIMARY EXAMINER